



Billing Code 4333–15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–ES–2017–N129; FXES11130400000EA–123–FF04EF1000]

Endangered and Threatened Wildlife and Plants; Availability of Proposed Low-Effect Habitat Conservation Plan; Orange County Utilities, Malcolm Road Water Supply Facility, Orange County, FL

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments/information.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (Act). Orange County Utilities (Applicant) is requesting a 10-year ITP. We request public comment on the permit application and accompanying proposed Malcolm Road Water Supply Habitat Conservation Plan (HCP), as well as on our preliminary determination that the plan qualifies as low effect under the National Environmental Policy Act. To make this determination, we used our environmental action statement and low-effect screening form, which are also available for review.

DATES: To ensure consideration, please send your written comments by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: If you wish to review the application and HCP, you may request documents by email, U.S. mail, or phone (see below). These documents are also available

for public inspection by appointment during normal business hours at the office below.

Send your comments or requests by any one of the following methods.

Email: northflorida@fws.gov. Use “Attn: Permit number T-46110C-0” as your message subject line.

Fax: Field Supervisor, (904) 731-3191, Attn: Permit number TE-46110C-0.

U.S. mail: Field Supervisor, Jacksonville Ecological Services Field Office, Attn: Permit number TE-46110C-0, U.S. Fish and Wildlife Service, 7915 Baymeadows Way, Suite 200, Jacksonville, FL 32256.

In-person drop-off: You may drop off information during regular business hours at the above office address.

FOR FURTHER INFORMATION CONTACT: Tera Baird, telephone: (904) 731-3196; email: Tera Baird@fws.gov.

SUPPLEMENTARY INFORMATION:

Background

Section 9 of the Act (16 U.S.C. 1531 *et seq.*) and our implementing Federal regulations in the Code of Federal Regulations (CFR) at 50 CFR 17 prohibit the “take” of fish or wildlife species listed as endangered or threatened. Take of listed fish or wildlife is defined under the Act as “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct” (16 U.S.C. 1532). However, under limited circumstances, we issue permits to authorize incidental take—i.e., take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.

Regulations governing incidental take permits for threatened and endangered species are at 50 CFR 17.32 and 17.22, respectively. The Act's take prohibitions do not apply to federally listed plants on private lands unless such take would violate State law. In addition to meeting other criteria, an incidental take permit's proposed actions must not jeopardize the existence of federally listed fish, wildlife, or plants.

Applicants' Proposal

Orange County Utilities is requesting take of approximately 10.9 acres of occupied sand skink (*Neoseps reynoldsi*) habitat, incidental to the construction of a water supply facility and seek a 10-year permit. The project is located east of Avalon Road and west of SR 429 on the north side of Malcolm Road within Sections 8 and 17, Township 23 South, Range 27 East in Orange County, Florida. The Applicant proposes to mitigate for impacts to the species by purchasing 21.8 credits from a Service-approved sand skink mitigation bank prior to any land clearing activities commence.

Our Preliminary Determination

We have determined that the applicants' proposal, including the proposed mitigation and minimization measures, would have minor or negligible effects on the species covered in the HCP. Therefore, our proposed issuance of the requested ITP qualifies as a categorical exclusion under the National Environmental Policy Act (NEPA), as provided by Department of the Interior implementing regulations in part 46 of title 43 of the Code of Federal Regulations (43 CFR 46.205, 46.210, and 46.215). A

low-effect HCP involves: (1) Minor or negligible effects on federally listed or candidate species and their habitats, and (2) minor or negligible effects on other environmental values or resources.

Next Steps

We will evaluate the HCP and comments we receive to determine whether the ITP application meets the requirements of section 10(a) of the Act (16 U.S.C. 1531 *et seq.*). We will also evaluate whether issuance of the section 10(a)(1)(B) ITP complies with section 7 of the Act by conducting an intra-Service section 7 consultation. We will use the results of this consultation, in combination with the above findings, in our final analysis to determine whether or not to issue the ITP. If the requirements are met, we will issue ITP number TE-46110C-0 to the Applicant.

Public Comments

If you wish to comment on the permit application, HCP, and associated documents, you may submit comments by any one of the methods in **ADDRESSES**.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comments, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal

identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10 of the Act and NEPA regulations (40 CFR 1506.6).

Heath Rauschenberger,

Acting Field Supervisor,

Jacksonville Field Office,

Southeast Region.

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